

**ASSEMBLY BILL**

**No. 740**

**Introduced by Assembly Member Pavley**

February 19, 2003

---

---

An act to add Division 41 (commencing with Section 73500) to the Public Resources Code, relating to financing an air and water quality and coastal protection program, by providing the funds necessary therefor through the issuance and sale of bonds of the State of California and by providing for the handling and disposition of those funds, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

AB 740, as introduced, Pavley. Clean Air, Clean Water, and Coastal Protection Act of 2004.

Under existing law, various bond acts have been approved by the voters to provide funds for water projects, facilities, and programs.

This bill would enact the Clean Air, Clean Water, and Coastal Protection Act of 2004 which, if adopted, would authorize, for purposes of financing an air and water quality and coastal protection program, the issuance, pursuant to the State General Obligation Bond Law, of bonds in the amount of \$2,900,000,000.

The bill would require the Secretary of State to submit the bond act to the voters at the \_\_\_\_ election.

The bill would declare that it is to take effect immediately as an urgency statute.

Vote: <sup>2</sup>/<sub>3</sub>. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

*The people of the State of California do enact as follows:*

SECTION 1. Division 41 (commencing with Section 73500) is added to the Public Resources Code, to read:

DIVISION 41. CLEAN AIR, CLEAN WATER, AND  
COASTAL PROTECTION ACT OF 2004

CHAPTER 1. SHORT TITLE AND FINDINGS AND DECLARATIONS

73500. This division shall be known and may be cited as the Clean Air, Clean Water, and Coastal Protection Bond Act of 2004.

73501. The Legislature finds and declares that:

(a) California's air pollution continues to pose significant dangers to the public's health in both urban and many rural areas.

(b) Grant programs to encourage industry, transportation, and agriculture to replace older more polluting equipment and vehicles with new very low-emission and zero emission alternatives can provide a cost effective way to improve air quality, protect public health, and save lives.

(c) Air pollution from agricultural sources can be reduced by encouraging alternatives to current burning, tillage, fertilizing and other farming practices employed in some areas.

(d) One of the most important long range strategies to improve air quality, energy efficiency, and reduce dependence on foreign oil is the adoption of hydrogen as a major transportation fuel. A major barrier to the ultimate introduction of hydrogen fueled vehicles is the lack of fueling infrastructure. It may be possible to advance the development of hydrogen fueled vehicles by establishing an early public-private partnership to develop a fueling infrastructure.

CHAPTER 2. DEFINITIONS

73502. The following definitions apply to this division:

(a) "Air board" means the State Air Resources Board.

(b) "Air pollution" means emissions of pollutants regulated by the air board and include oxides of nitrogen, hydrocarbons, particulate matter, and toxic air contaminants.

(c) "Board" means the State Water Resources Control Board.

(d) “Department” means the Department of Fish and Game.

(e) “Secretary” means the Secretary of the Resources Agency.

(f) “Projects” and “Eligible Projects” are projects for one or more of the following purposes:

(1) The acquisition, construction, modification, or restoration of capital assets such as land and water resources, buildings, and facilities, as well as interests in these capital assets, and related costs.

(2) The acquisition of equipment, tools, vehicles, vessels, long-term contracts, or other enforceable interests in capital assets necessary to achieve the objectives of the program.

(3) The replacement, repowering or rebuilding of equipment.

### CHAPTER 3. THE CLEAN AIR, CLEAN WATER, AND COASTAL PROTECTION FUND

73505. The proceeds of bonds issued and sold pursuant to this division shall be deposited in the Clean Air, Clean Water, and Coastal Protection Fund, which is hereby established in the State Treasury.

### CHAPTER 4. CLEAN AIR PROGRAM

#### Article 1. Administrative Provisions

73506. The air board shall adopt regulations as needed for the administration of programs funded pursuant to this chapter based on the following criteria:

(a) Projects shall provide cost-effective emission reductions of air pollution.

(b) Projects shall contribute to public health by reducing pollution during the entire life of the project.

(c) No project is eligible for funding if it is required by any local, state, or federal statute, rule or regulation or any other binding order.

(d) The air board shall establish standards for eligible costs, appropriate matching requirements, and establish other grant and loan requirements necessary to ensure maximum public benefits.

(e) All programs established pursuant to this chapter shall include a monitoring and reporting component to allow evaluation

1 and modification of program requirements to achieve maximum  
2 air quality improvements.

3  
4 Article 2. Reducing Pollution from Diesel Trucks: The Carl  
5 Moyer Program

6  
7 73507. The sum of two hundred million dollars  
8 (\$200,000,000) shall be available from the fund for appropriation  
9 by the Legislature to the air board for grants pursuant to Chapter  
10 9 (commencing with Section 44275) of Part 5 of Division 26 of the  
11 Health and Safety Code.

12  
13 Article 3. Reducing Pollution from Schoolbuses

14  
15 73508. The sum of one hundred million dollars  
16 (\$100,000,000) shall be available from the fund for appropriation  
17 by the Legislature to the air board for grants to replace older, more  
18 polluting, schoolbuses, to reduce air pollution and to reduce  
19 exposure to air pollution, including air toxics, by school children.

20  
21 Article 4. Reducing Pollution from Agricultural Sources

22  
23 73509. The sum of one hundred million dollars  
24 (\$100,000,000) shall be available from the fund for appropriation  
25 by the Legislature to the air board for grants and loans to reduce  
26 air pollution from agricultural sources. Eligible projects may  
27 include, but are not limited, to any of the following:

28 (a) Grants and loans for the replacement of engines and  
29 equipment to reduce air pollution.

30 (b) Grants and loans for equipment or other eligible projects  
31 that encourage adoption of tillage, harvesting, fertilizing or other  
32 practices that reduce air pollution.

33 (c) Grants for equipment or other capital outlay necessary to  
34 reduce agricultural burning.

35  
36 Article 5. Hydrogen Fueling Infrastructure

37  
38 73510. (a) The sum of five hundred million dollars  
39 (\$500,000,000) shall be available from the fund for appropriation  
40 by the Legislature to the air board for grants and loans for projects

1 that provide incentives for the early establishment of a fueling  
2 infrastructure to support hydrogen fuel cell powered and hydrogen  
3 combustion powered vehicles.

4 (b) The air board, in consultation with the California Energy  
5 Resources Conservation and Development Commission, the  
6 Treasurer, the affected industries, public health and environmental  
7 organizations, and the public, shall prepare and submit to the  
8 Legislature a plan to use the funds authorized by this section to  
9 encourage the earliest practical, cost effective, large scale  
10 inclusion of hydrogen fueled vehicles into the California vehicle  
11 market.

12 (c) The plan shall include consideration of financing  
13 subsequent fueling infrastructure development through revenue  
14 bonds supported by a tax on hydrogen. No appropriation of funds  
15 authorized by this section may be made prior to the date on which  
16 the report required by this section is submitted to the Legislature.

17  
18 CHAPTER 5. CLEAN WATER PROGRAMS

19  
20 Article 1. Water Quality

21  
22 73530. (a) The sum of five hundred million dollars  
23 (\$500,000,000) shall be available from the fund for appropriation  
24 by the Legislature to the board for competitive grants, as follows:

25 (1) The sum of one hundred million dollars (\$100,000,000) for  
26 nonpoint source pollution prevention projects pursuant to Article  
27 3 (commencing with Section 30935) of Chapter 4 of Division 20.4.

28 (2) The sum of one hundred million dollars (\$100,000,000) for  
29 agricultural pollution prevention projects pursuant to Article 4  
30 (commencing with Section 30940) of Chapter 4 of Division 20.4.  
31 Of the funds made available pursuant to this paragraph, not less  
32 than twenty million dollars (\$20,000,000) shall be expended for  
33 grants to reduce water pollution from dairy operations.

34 (3) The sum of two hundred million dollars (\$200,000,000) for  
35 urban storm water runoff projects pursuant to Article 2  
36 (commencing with Section 30930) of Chapter 4 of Division 20.4.

37 (4) The sum of fifty million dollars (\$50,000,000) for small  
38 community wastewater projects pursuant to Article 1  
39 (commencing with Section 30925) of Chapter 4 of Division 20.4.

(5) The sum of fifty million dollars (\$50,000,000) for small community groundwater protection projects pursuant to Article 6 (commencing with Section 30950) of Chapter 4 of Division 20.4.

(b) For the purposes of funding projects pursuant to this article, priority shall be given to projects that do both of the following:

(1) Assist in meeting water quality standards established by the board.

(2) Are implemented as part of a multi objective water management plan.

(c) All projects financed pursuant to this article shall include a monitoring and evaluation component consistent with the surface water ambient monitoring program.

### Article 3. Integrated Watershed Management Programs

73531. The sum of five hundred million dollars (\$500,000,000) shall be available from the fund for appropriation by the Legislature to the board for grants for integrated watershed management projects pursuant to Article 5 (commencing with Section 30945) of Chapter 4 of Division 20.4.

### Article 4. River Protection

73532. The sum of three hundred million dollars (\$300,000,000) shall be available from the fund for appropriation by the Legislature to the secretary for competitive grants for river parkway projects consistent with Section 79541 of the Water Code. Projects may include those that meet the requirements of the urban streams restoration program established pursuant to Section 7048 of the Water Code. For the purposes of funding projects pursuant to this article, priority shall be given to projects that combine two or more of the following elements:

(a) Water quality improvement.

(b) Groundwater recharge.

(c) Stormwater management.

(d) Recreational benefits.

(e) Urban riverfront revitalization.

(f) Habitat protection and restoration.

(g) Agricultural preservation.

73533. (a) Funds made available pursuant to Section 73532 shall be allocated to projects within the watersheds, including tributaries, of the following rivers, pursuant to the following schedule:

(1) North coast rivers	\$20,000,000
(2) Sacramento River	\$50,000,000
(3) Consumnes River	\$10,000,000
(4) San Joaquin River	\$30,000,000
(5) Kern River	\$20,000,000
(6) Guadalupe River	\$10,000,000
(7) Central coast rivers	\$30,000,000
(8) Los Angeles River	\$50,000,000
(9) San Gabriel River	\$10,000,000
(10) Santa Ana River	\$30,000,000
(11) San Diego River	\$10,000,000
(12) Unallocated	\$30,000,000

(b) Projects funded pursuant to paragraph (8) or (9) subdivision (a) shall be implemented in a manner that is consistent with Section 79508 of the Water Code.

(c) Projects funded pursuant to paragraph (11) shall be implemented in a manner that is consistent with Division 22.9 (commencing with Section 32630).

73534. For the purposes of this article, the following definitions apply:

(a) “North coast rivers” include all those rivers and their watersheds within the Counties of Del Norte, Humboldt, Mendocino, Sonoma, Marin, and Napa.

(b) “Central coast rivers” include all those rivers and their watersheds within the Counties of San Francisco, San Mateo, Santa Cruz, Monterey, San Luis Obispo, Santa Barbara, and Ventura.

#### CHAPTER 6. COASTAL WATER QUALITY PROGRAMS

73550. The sum of one hundred million dollars (\$100,000,000) shall be available from the fund for appropriation by the Legislature to the board for competitive grants for the

1 purposes of Chapter 3 (commencing with Section 30915) of  
2 Division 20.4.

3 73551. The sum of two hundred million dollars  
4 (\$200,000,000) shall be available from the fund for appropriation  
5 by the Legislature to the State Coastal Conservancy for coastal  
6 protection projects pursuant to Division 21 (commencing with  
7 Section 31000) of the Public Resources Code. Of the funds made  
8 available pursuant to this section, not less than forty million dollars  
9 (\$40,000,000) shall be expended for the San Francisco Bay  
10 Conservancy Program established pursuant to Chapter 4.5  
11 (commencing with Section 31160) of Division 21.

12 73552. The sum of one hundred million dollars  
13 (\$100,000,000) shall be available from the fund for appropriation  
14 by the Legislature to the department for projects for the protection  
15 and restoration of coastal and anadromous fisheries, marine  
16 mammals, and coastal wildlife and habitat.

17 73553. The sum of three hundred million dollars  
18 (\$300,000,000) shall be available from the fund for appropriation  
19 by the Legislature to the board for matching grants to public  
20 agencies for projects to make improvements to, or upgrades or  
21 conversions of, existing sewer collection and treatment systems  
22 and septic systems for the restoration and protection of coastal  
23 water quality.

24 73554. All real property acquired pursuant to this chapter  
25 shall be acquired from willing sellers.

26

## 27 Chapter 7. MISCELLANEOUS

28

29 73559. Not more than 10 percent of funds allocated to any  
30 program funded by this division may be used to finance  
31 monitoring, research, planning, outreach or training necessary for  
32 the successful implementation of the program.

33

## 34 CHAPTER 8. FISCAL PROVISIONS

35

36 73560. Bonds in the total amount of two billion nine hundred  
37 million dollars (\$2,900,000,000), or so much thereof as is  
38 necessary, not including the amount of any refunding bonds, or so  
39 much thereof as is necessary, may be issued and sold to provide a  
40 fund to be used for carrying out the purposes expressed in this





division and to reimburse the General Obligation Bond Expense Revolving Fund pursuant to Section 16724.5 of the Government Code. The bonds, when sold, shall be and constitute a valid and binding obligation of the State of California, and the full faith and credit of the State of California is hereby pledged for the punctual payment of the principal of, and interest on, the bonds as the principal and interest become due and payable.

73561. The bonds authorized by this division shall be prepared, executed, issued, sold, paid, and redeemed as provided in the State General Obligation Bond Law (Chapter 4 (commencing with Section 16720) of Part 3 of Division 4 of Title 2 of the Government Code), and all of the provisions of that law, except Section 16727, apply to the bonds and to this division and are hereby incorporated in this division as though set forth in full in this division.

73562. (a) Solely for the purpose of authorizing the issuance and sale, pursuant to the State General Obligation Bond Law, of the bonds authorized by this division, the Clean Air, Clean Water, and Coastal Protection Finance Committee is hereby established. For purposes of this division, the Clean Air, Clean Water, and Coastal Protection Finance Committee is the “committee” as that term is used in the State General Obligation Bond Law. The committee consists of the Treasurer, the Controller, and the Director of Finance, or their designated representatives. The \_\_\_\_\_ shall serve as chairperson of the committee. A majority of the committee may act for the committee.

(b) For purposes of the State General Obligation Bond Law, each state agency that administers an appropriation from the fund is designated the “board.”

73563. The committee shall determine whether or not it is necessary or desirable to issue bonds authorized pursuant to this division in order to carry out the actions specified in this division and, if so, the amount of bonds to be issued and sold. Successive issues of bonds may be authorized and sold to carry out those actions progressively, and it is not necessary that all of the bonds authorized to be issued be sold at any one time.

73564. There shall be collected each year and in the same manner and at the same time as other state revenue is collected, in addition to the ordinary revenues of the state, a sum in an amount required to pay the principal of, and interest on, the bonds each

1 year. It is the duty of all officers charged by law with any duty in  
2 regard to the collection of the revenue to do and perform each and  
3 every act that is necessary to collect that additional sum.

4 73565. Notwithstanding Section 13340 of the Government  
5 Code, there is hereby appropriated from the General Fund in the  
6 State Treasury, for the purposes of this division, an amount that  
7 will equal the total of the following:

8 (a) The sum annually necessary to pay the principal of, and  
9 interest on, bonds issued and sold pursuant to this division, as the  
10 principal and interest become due and payable.

11 (b) The sum necessary to carry out Section 73566, appropriated  
12 without regard to fiscal years.

13 73566. For the purposes of carrying out this division, the  
14 Director of Finance may authorize the withdrawal from the  
15 General Fund of an amount not to exceed the amount of the unsold  
16 bonds that have been authorized by the committee to be sold for  
17 the purpose of carrying out this division. Any amount withdrawn  
18 shall be deposited in the fund. Any money made available under  
19 this section shall be returned to the General Fund from proceeds  
20 received from the sale of bonds for the purpose of carrying out this  
21 division.

22 73567. All money deposited in the fund that is derived from  
23 premium and accrued interest on bonds sold shall be reserved in  
24 the fund and shall be available for transfer to the General Fund as  
25 a credit to expenditures for bond interest.

26 73568. Pursuant to Chapter 4 (commencing with Section  
27 16720) of Part 3 of Division 4 of Title 2 of the Government Code,  
28 the cost of bond issuance shall be paid out of the bond proceeds.  
29 These costs shall be shared proportionally by each program funded  
30 through this bond act.

31 73569. The agency that administers an appropriation from the  
32 fund may request the Pooled Money Investment Board to make a  
33 loan from the Pooled Money Investment Account, including other  
34 authorized forms of interim financing that include, but are not  
35 limited to, commercial paper, in accordance with Section 16312  
36 of the Government Code, for the purpose of carrying out this  
37 division. The amount of the request shall not exceed the amount  
38 of the unsold bonds that the committee, by resolution, has  
39 authorized to be sold for the purpose of carrying out this division.  
40 The requesting agency shall execute any documents required by

the Pooled Money Investment Board to obtain and repay the loan. Any amounts loaned shall be deposited in the fund to be allocated by the requesting agency in accordance with this division.

73570. The bonds may be refunded in accordance with Article 6 (commencing with Section 16780) of Chapter 4 of Part 3 of Division 4 of Title 2 of the Government Code, which is a part of the State General Obligation Bond Law. Approval by the voters of the state for the issuance of the bonds described in this division includes the approval of the issuance of any other bonds issued to refund any bonds originally issued under this division or any previously issued refunding bonds.

73571. Notwithstanding any provision of this division or the State General Obligation Bond Law, if the Treasurer sells bonds pursuant to this division that include a bond counsel opinion to the effect that the interest on the bonds is excluded from gross income for federal tax purposes, subject to designated conditions, the Treasurer may maintain separate accounts for the investment of bond proceeds and for the investment earnings on those proceeds. The Treasurer may use or direct the use of those proceeds or earnings to pay any rebate, penalty, or other payment required under federal law or to take any other action with respect to the investment and use of those bond proceeds required or desirable under federal law to maintain the tax-exempt status of those bonds and to obtain any other advantage under federal law on behalf of the funds of that state.

73572. The Legislature hereby finds and declares that, inasmuch as the proceeds from the sale of bonds authorized by this division are not “proceeds of taxes” as that term is used in Article XIII B of the California Constitution, the disbursement of these proceeds is not subject to the limitations imposed by that article.

SEC. 2. This act shall become effective upon the approval by the voters of the Clean Air, Clean Water, and Coastal Protection Act of 2004, as set forth in Section 1 of the act adding this section.

SEC. 3. Section 1 of this act shall be submitted to the voters at the \_\_\_\_ election in accordance with provisions of the Government Code and the Elections Code governing the submission of statewide measures to the voters.

SEC. 4. (a) Notwithstanding any other provision of law, all ballots at the election shall have printed thereon and in a square thereof, the words: “Clean Air, Clean Water, and Coastal

1 Protection Act of 2004” and in the same square under those words,  
2 the following in 8-point type: “This act provides for a bond issue  
3 of two billion hundred nine million dollars (\$ 2,900,000,000) to  
4 provide funds for an air and water quality and coastal protection  
5 program.” Opposite the square, there shall be left spaces in which  
6 the voters may place a cross in the manner required by law to  
7 indicate whether they vote for or against the act.

8 (b) Notwithstanding Sections 13247 and 13281 of the  
9 Elections Code, the language in subdivision (a) shall be the only  
10 language included in the ballot label for the condensed statement  
11 of the ballot title, and the Attorney General shall not supplement,  
12 subtract from, or revise that language, except that the Attorney  
13 General may include the financial impact summary prepared  
14 pursuant to Section 9087 of the Elections Code and Section 88003  
15 of the Government Code. The ballot label is the condensed  
16 statement of the ballot title and the financial impact summary.

17 (c) Where voting in the election is done by means of voting  
18 machines used pursuant to law in a manner that carries out the  
19 intent of this section, the use of the voting machines and the  
20 expression of the voters’ choice by means thereof are in  
21 compliance with this section.

22 SEC. 5. This act is an urgency statute necessary for the  
23 immediate preservation of the public peace, health, or safety  
24 within the meaning of Article IV of the Constitution and shall go  
25 into immediate effect. The facts constituting the necessity are:

26 In order to reduce air and water pollution, and protect critical  
27 natural resources, as soon as possible, thereby protecting public  
28 health and safety, it is necessary that this act take effect  
29 immediately.

